

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

June 19, 2019

ISAAC MARTINEZ,

DORA GARZA (1),

JULIO CESAR DIAZ-SAUCEDO (2),

DORA GARZA (1),

JULIO CESAR DIAZ-SAUCEDO (2),

DEVON LEONTAE SUTTON,

DEVON LEONTAE SUTTON,

HEW SCOTT TURNER,

BASILIO PARRA-GUZMAN,

JOSE LUIS HERNANDEZ, JR.,

PRISCILLA GONZALEZ,

TIMOTHY ALONZO NERO,

MARIO VILLALOBOS ASCENCIO,

MARCOS RODRIGUEZ,

ERIC MARTINEZ REYES,

TIFFANY DAWN VICTORIA,

ANGEL MANUEL GALLARDO,

LESLIE MICHELLE TORRES-GOMEZ,

RICARDO AGUILAR-CONTRERAS,

EDGAR OSIEL GUTIERREZ,

JESUS ANTONIO LOPEZ-COTA,

EUSEBIO GOMEZ-GOMEZ,

MARCOS GARCIA-RAMIREZ,

MANUEL AQUINO-MANUEL,

FERNANDO SOLANO-CASTREJON,

CELERINO VILLEGAS-LASTRES,

FRANCISCO RINCON-CARLOS,

LEONARDO BARRERA-CASTRO,

J. SANTOS REYES GARCIA-ALONSO,

LUIS ANGEL ESCOBEDO-MEDINA,

BLANCA RUTH LOPEZ,

IVAN LEONEL LEPE-BETANCOURT,

SHARREL ANN MYERS,

Defendants.

No. 3:19-MJ-02467-AGS

No. 3:19-CR-01801-H

No. 3:19-CR-01801-H

No. 3:19-CR-02218-H,

No. 3:19-CR-02218-H

No. 3:09-CR-04389-MMA

No. 3:11-CR-01448-MMA

No. 3:16-CR-02072-CAB

No. 3:19-CR-07091-AJB

No. 3:19-MJ-02546-BGS

No. 3:19-MJ-02547-BGS

No. 3:19-MJ-02548-BGS

No. 3:19-MJ-02549-BGS

No. 3:19-MJ-02550-BGS

No. 3:19-MJ-02552-BGS

No. 3:19-MJ-02545-BGS

No. 3:19-MJ-02554-BGS

No. 3:19-MJ-02556-BGS

No. 3:19-MJ-02500-BGS

No. 3:19-MJ-02507-BGS

No. 3:19-MJ-02538-BGS

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No. 3:19-MJ-02544-BGS

No. 3:19-MJ-02551-BGS

No. 3:19-MJ-02555-BGS

No. 3:19-MJ-02557-BGS

No. 3:19-MJ-02558-BGS

No. 3:19-MJ-02553-BGS

No. 3:19-MJ-02358-NLS

No. 3:19-CR-02297-BAS

San Diego, California

1 TRANSCRIPT OF DIGITALLY RECORDED PROCEEDINGS

2 (Initial Appearances)

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5 BEFORE THE HONORABLE BERNARD G. SKOMAL, MAGISTRATE JUDGE
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22 COURT REPORTER:

 AMANDA M. LeGORE
 RDR, CRR, CRC, FCRR, OCE
 U.S. District Court
 333 West Broadway, Suite 420
 San Diego, CA 92101
 amanda_legore@casd.uscourts.gov

1 APPEARANCES:
2 FOR THE PLAINTIFF:

KARLA DAVIS
ORLANDO GUTIERREZ
U.S. Attorney's Office
Southern District of California
880 Front Street, Room 6293
San Diego, CA 92101-8893
(619) 557-5610

6 FOR DEFENDANT
7 MARTINEZ:
8 (MATERIAL WITNESSES):

ALEX McDONALD
Assistant Federal Defender
Federal Defenders of San Diego
225 Broadway, Suite 900
San Diego, CA 92101-5008
(619) 234-8467

10 FOR DEFENDANT
11 GARZA:

ALEX McDONALD
(see address listed above)
(Specially appearing for Craig Smith)

13 FOR DEFENDANT
14 DIAZ SAUCEDO:

TODD HILTS
Attorney at Law
1912 Coronado Avenue, Suite 102
San Diego, CA 92154
(619) 531-7900

17 FOR DEFENDANT
18 SUTTON:

ALEX McDONALD
(see address listed above)

19 FOR DEFENDANT
20 TURNER:

ALEX McDONALD
(see address listed above)

21 FOR DEFENDANT
22 PARRA-GUZMAN:

ALEX McDONALD
(see address listed above)

23 FOR DEFENDANT
24 HERNANDEZ, JR.:

ALEX McDONALD
(see address listed above)

25

1 FOR DEFENDANT
GONALZEZ: GRETCHEN VON HELMS
2 Attorney at Law
105 W. F Street, Suite 306
3 San Diego, CA 92101
(619) 239-1199
4

5 FOR DEFENDANT
NERO: ALEX McDONALD
6 (see address listed above)
7

8 FOR DEFENDANT
ASCENCIO: ALEX McDONALD
(see address listed above)
9

10 FOR DEFENDANT
RODRIGUEZ: ALEX McDONALD
(see address listed above)
11

12 FOR DEFENDANT
MARTINEZ-REYES: ALEX McDONALD
(see address listed above)
13

14 FOR DEFENDANT
VICTORIA: ALEX McDONALD
(see address listed above)
15

16 FOR DEFENDANT
GALLARDO: ALEX McDONALD
(see address listed above)
17

18 FOR DEFENDANT
TORRES-GOMEZ: ALEX McDONALD
(see address listed above)
19

20 FOR DEFENDANT
AGUILAR-CONTRERAS: ALEX McDONALD
(see address listed above)
21

22 FOR DEFENDANT
LOPEZ-COTA: ALEX McDONALD
(see address listed above)
23

24 FOR DEFENDANT
GOMEZ-GOMEZ: ALEX McDONALD
(see address listed above)
25

1	FOR DEFENDANT	
	GARCIA-RAMIREZ:	ALEX McDONALD
2		(see address listed above)
	FOR DEFENDANT	
3	AQUINO-MANUEL:	ALEX McDONALD
		(see address listed above)
4	FOR DEFENDANT	
	SOLANO-CASTREJON:	ALEX McDONALD
5		(see address listed above)
6	FOR DEFENDANT	
	VILLEGAS-LASTRES:	ALEX McDONALD
7		(see address listed above)
	FOR DEFENDANT	
8	RINCON-CARLOS:	ALEX McDONALD
		(see address listed above)
9	FOR DEFENDANT	
	BARRERA-CASTRO:	ALEX McDONALD
10		(see address listed above)
	FOR DEFENDANT	
11	GARCIA-ALONSO:	ALEX McDONALD
		(see address listed above)
12		
	FOR DEFENDANT	
13	ESCOBEDO-MEDINA:	ALEX McDONALD
		(see address listed above)
14		
	FOR DEFENDANT	
15	LOPEZ:	NANCEE SCHWARTZ
		Attorney at Law
16		105 W. F Street, #3
		San Diego, CA 92101
17		(619) 232-5044
18	FOR DEFENDANT	
	LEPE-BETANCOURT:	ALEX McDONALD
19		(see address listed above)
20	FOR DEFENDANT	
	SHARREL ANN MYERS:	SHAUN SULLIVAN
21		Attorney at Law
		15 S. 34th Street, Suite B
22		San Jose, CA 95116
		(760) 898-5613
23		
	THE INTERPRETER:	DEBORAH BERRY
24		
25		

(Wednesday, June 19, 2019; 2:00 p.m.)

P R O C E E D I N G S

THE CLERK: Calling material witnesses on matter 1 on the log.

THE COURT: All right. Gentlemen, all three of you are here today being held as material witnesses. You're not being charged with a crime.

As witnesses, you're entitled to a couple of things.

The first is a lawyer. You've each been appointed an attorney in the name of Ruth Philips. Maybe -- you should have a card with her name and telephone number on it. I see that you do.

You're also entitled to be released on bail but there are conditions involved, and I'll explain them to you.

If you're released on bond, you can't violate the law. You'll have to come to Court when ordered. You can travel throughout California but you can't leave the country. And you'll be supervised by Pretrial Services. You can't use any drugs without a lawful medical prescription. And you can't possess any firearms.

Now, the bail that we set is for the amount of money that a financially responsible adult would have to sign, and then they put a 10 percent cash deposit on that amount.

1 So for Mr. Bautista Martinez, the amount is \$5,000
2 with a \$500 deposit, and that will be returned to the person,
3 so long as you abide by these conditions.

4 For Mr. Barrios-Sant -- Santibanez, it's \$10,000 with
5 a 10 percent cash deposit.

6 And, finally, for Mr. Gomez-Ignacio, it is a \$5,000
7 bond, signed by one financially responsible adult, with a 10
8 percent cash deposit.

9 Now, your lawyer will come over and ask a lot of
10 questions and answer all of your questions to see if you can be
11 released on these conditions of bond.

12 And if you can't, your lawyer will then explain the
13 process by which to speed up your case, if possible, so you can
14 go home that much sooner.

15 So that's all I have for you today.

16 Ms. Philips will be able to see you hopefully within
17 24 hours.

18 All right. That's all for today.

19 (Pause, the Court and clerk conferring off the
20 record.)

21 UNIDENTIFIED SPEAKER: Are these arraignments?

22 (Indiscernible.)

23 UNIDENTIFIED SPEAKER: No, I think they're all
24 arraignments on the complaint. Right?

25 (Indiscernible discussion.)

1 (Pause, off-the-record discussion.)

2 MS. McDONALD: Your Honor, just by way of background,
3 I think (indiscernible) present in my office (indiscernible)
4 chance to speak with today, so (indiscernible) speak with them.

5 THE COURT: Okay. Why don't we call the cases, and
6 then we'll see which ones (indiscernible).

7 Okay. And just -- well, we'll call the case, and
8 then you can make the (indiscernible).

9 THE CLERK: Matter 2, 19-CR-1801, USA v. Dora Garza,
10 and Julio Cesar Diaz-Sausedo.

11 Matter No. 3, 19-CR-2218, defendant 1, Dora Garza.
12 Defendant 2, Julio Cesar Diaz-Sausedo.

13 Matter 4, 09-CR-4389, USA v. Devon Leontae Sutton.

14 And 5, 11-CR-1448, USA v. Devon Leontae Sutton.

15 Matter 7, 19-CR-7091, USA v. Basilio Parra-Guzman.

16 Matter 9, 19-MJ-2547, USA v. Priscilla Gonzalez.

17 Matter 18 -- 19-MJ-2507, USA v. Edgar Osiel
18 Gutierrez.

19 Matter 20, 19-MJ-2539, USA v. Eusebio Gomez-Gomez.

20 Matter 26, 19-MJ-2555, USA v. Leonardo
21 Barrera-Castro.

22 And matter 1 from the sealed log, 19-MJ-2358, USA v.
23 Ivan Leonel Lepe-Betancourt.

24 THE COURT: Was there a motion to unseal?

25 MS. DAVIS: There was, your Honor. Yes. Move to

1 unseal for (indiscernible).

2 THE COURT: All right. Thank you. That will be
3 granted.

4 All right. So, for Federal Defender -- Federal
5 Defenders -- I forget your name. I can't remember it.

6 MS. McDONALD: Oh, that's okay, your Honor. Alex
7 McDonald.

8 THE COURT: Alex -- oh --

9 MS. McDONALD: Alex McDonald.

10 Actually, we're good to go. (Indiscernible) entered,
11 (indiscernible) so we can (indiscernible).

12 THE COURT: Okay. Good.

13 We have someone out on release?

14 MR. HILTS: Yes, your Honor. Todd Hilts on behalf of
15 Julio Cesar Diaz-Sausedo. I think that's case No. 2 defendant.
16 And (indiscernible) also case no. 3, because it's --

17 THE COURT: Okay. Well, why don't we -- why don't we
18 handle that one first.

19 It's an arraignment on the Indictment. Correct?

20 MR. HILTS: Yes.

21 THE COURT: And do we have Ms. Garza here?

22 MR. HILTS: Yes. She's (indiscernible).

23 THE COURT: Who represents Ms. Garza?

24 MS. McDONALD: I'll be standing in for Mr. Smith.

25 (Indiscernible) Garza this afternoon.

1 THE COURT: Okay. And -- then let's proceed.

2 THE CLERK: Is Dora Garza your true name?

3 Is Dora Garza your true name?

4 THE DEFENDANT THROUGH THE INTERPRETER: Yes.

5 THE CLERK: Is Julio Cesar Diaz-Sausedo your true
6 name?

7 THE DEFENDANT THROUGH THE INTERPRETER: Yes.

8 THE CLERK: You're both hereby informed that an
9 Indictment has been filed charging you each with transportation
10 of certain aliens and (indiscernible) of said aliens.
11 (phonetic)

12 Counsel, have you received a copy of the Indictment,
13 and do you waive further reading?

14 MR. HILTS: Yes. (Indiscernible.)

15 THE CLERK: You're further informed that you have a
16 right to a trial by jury. You can be represented by counsel at
17 all proceedings before this court. (Indiscernible) on your
18 behalf.

19 How do you each plead to the counts in the Indictment
20 in which you are named?

21 THE COURT: I'll enter a not guilty plea for both of
22 the accused in this Indictment. I can't seem to find my
23 calendar.

24 All right. So for the Indictment case, you're
25 scheduled for motion hearing before Judge Huff on July 29th, at

1 2:00 p.m.

2 Same bail conditions apply. Same counsel that's
3 being appointed or retained.

4 And is there a motion to dismiss the underlying
5 complaint?

6 MS. DAVIS: So move, your Honor.

7 THE COURT: That will be granted.

8 Do we need to address any other issues?

9 MR. HILTS: No, your Honor.

10 MS. McDONALD: Nothing (indiscernible).

11 THE COURT: All right. So you have got the new court
12 date. Okay.

13 So that's all for today for Ms. Garza and
14 Mr. Diaz-Sausedo.

15 MR. HILTS: Thank you, your Honor.

16 THE COURT: Thank you.

17 All right. Then I think we'll address the supervised
18 release violation cases. That would be Mr. Sutton and
19 Mr. Parra-Guzman.

20 Both of you folks are here today because there's been
21 a warrant issued by the district court judge alleging that
22 there's been violations of supervised release conditions
23 imposed.

24 You both have a right to remain silent. Anything
25 that you say can be used against you. I'm not going to ask you

1 any questions.

2 It appears that Mr. Sutton has two cases before Judge
3 Anello. We'll appoint Richard Boesen to represent you. And
4 the allegations are the same on both cases.

5 One is that in February of this year you committed
6 another offense. Also, you used a controlled substance in
7 February and in March -- and in April. Failed to attend the
8 behavioral therapy sessions with Dr. Pizitz. Failed to report
9 to Probation. Both of those took place in June. And had a
10 phone and had access to the Internet in May. And then, in
11 June, failed to report your detention by Oceanside police.

12 Having looked over the OSC, I'll find probable cause
13 without prejudice. Enter a denial on your behalf on both of
14 these cases. Set your case before me for pre-preliminary
15 hearing on July 2nd, at 1:30.

16 You're Mr. Sutton. Correct?

17 UNIDENTIFIED SPEAKER: (Indiscernible.)

18 THE COURT: Yeah. And confirm the no-bail bench
19 warrant status without prejudice.

20 Anything additional for Mr. Sutton?

21 MS. McDONALD: No. Thank you, your Honor.

22 THE COURT: All right. That's Mr. Sutton.

23 Now, Mr. Parra-Guzman, we will -- I appointed you --
24 I believe yesterday -- a federal defender. They represent you
25 on the underlying case, which charges you with a federal

1 offense -- your preliminary -- pre-preliminary hearing -- which
2 is really just a status date because you're not entitled to a
3 pre-preliminary hearing under 32.1 -- will be July 2nd at 1:30
4 before me. And I'll enter a denial of the allegations

5 MS. McDONALD: Your Honor, the information that I
6 have is that Kenneth Troi -- Troiano is appointed on a related
7 case.

8 THE COURT: Oh, I'm sorry. Did I appoint -- yeah, I
9 appointed Ken Troiano yesterday, not Federal Defenders.

10 So Ken Troiano is your lawyer, Mr. Parra-Guzman. And
11 I will confirm the no-bail status without prejudice and enter a
12 denial without prejudice as well. And that's all for
13 Mr. Parra-Guzman.

14 Now, for the remaining folks. You've all been
15 charged with a complaint in federal court, charging you with a
16 felony. All of you have a right to remain silent. I'm not
17 going to ask you any questions. I'm going to briefly tell you
18 the nature of the offense. It's not for you to respond.

19 So, Mr. Lepe-Betancourt is charged with conspiracy to
20 distribute methamphetamine and cocaine.

21 Ms. Priscilla Gonzalez is charged with importing
22 about 36 kilos of cocaine.

23 Mr. Gutierrez, Mr. Gomez-Gomez, you both are charged
24 with having been deported and found back here in the United
25 States illegally.

1 The person charged as Mr. Barrera-Castro is charged
2 with misusing a passport to gain entry into the United States.

3 If you're not United States citizens, you have a
4 right to have a consular or officer of your country notified
5 that you've been arrested, and you all have the right to an
6 attorney. And if you can't afford one, I'll appoint you one.

7 Do we have an opportunity to get any of the financial
8 affidavits?

9 MS. McDONALD: I believe the only financial affidavit
10 that I could turn in at this time is for Mr. Betancourt.

11 THE COURT: Okay. I'll take it.

12 We didn't get one for Ms. Gonzalez?

13 MS. McDONALD: No, because Ms. Von Helms is making an
14 appearance today.

15 THE COURT: Oh, you didn't -- okay. So, first, we'll
16 deal with Mr. Betancourt, then.

17 (Pause.)

18 THE COURT: All right. I'm probably -- I'm going to
19 require a more extensive financial affidavit. So I'll
20 preliminarily appoint Michael Hernández.

21 I'm going to require a long form financial affidavit
22 for Mr. Betancourt.

23 And then for Ms. Gonzalez, are you making an
24 appearance?

25 Ms. Von Helms, are you making an appearance on

1 Ms. Gonzalez?

2 MS. VON HELMS: Yes, your Honor. I would request the
3 Court allow me to make a special appearance for (indiscernible)
4 today's date, and then I will, on the next court date
5 (indiscernible) --

6 THE COURT: So you'll represent her today, up to the
7 next court date?

8 MS. VON HELMS: Yes. That's correct, your Honor
9 (indiscernible).

10 THE COURT: And let me ask a question to the
11 Government. Is there going to be a bail set today, or are you
12 going to move for detention?

13 MS. VON HELMS: They're requesting a bail, your
14 Honor. A \$50,000 --

15 THE COURT: Okay. I don't need to know right now.
16 So you'll represent her at the bail hearing today?

17 MS. VON HELMS: Yes, your Honor.

18 THE COURT: Okay. So then you'll let us know, at the
19 next court appearance, if you're making a general appearance or
20 whether -- if she's asking for an appointment of counsel,
21 you'll prepare the financial affidavit?

22 MS. VON HELMS: (Indiscernible)

23 THE COURT: Okay. Then we'll note that.

24 Is this with your permission, Ms. Gonzalez?

25 THE DEFENDANT THROUGH THE INTERPRETER: Yes.

1 THE COURT: Okay. Very good. Thank you.

2 All right. And then, for Mr. Gutierrez, we are going
3 to appoint Federal Defenders. And for Mr. Gomez-Gomez, we'll
4 appoint David Silldorf.

5 And then the person charged as Mr. Barrera-Castro, I
6 will appoint Federal Defenders.

7 All right. So all of you have an attorney. The
8 attorney should be able to see you within 24 to 48 hours.

9 You're also -- your next court appearance, if there
10 is no detention hearing, is for a preliminary hearing on July
11 2nd at 1:30 before me.

12 And then you all can tie it up to bail unless the
13 Government moves for detention, in which case we'll hold a
14 detention hearing.

15 So for any of these folks, Ms. Davis, is the
16 Government moving for detention?

17 MS. DAVIS: Yes, your Honor.

18 Matter 18, 20, and 26.

19 THE COURT: 18?

20 MS. DAVIS: 20 and 26.

21 THE COURT: These are -- and 26.

22 And what's the basis?

23 MS. DAVIS: Risk of flight, your Honor, on all three.

24 THE COURT: All right. And there's been an objection
25 to -- by Federal Defenders throughout the week regarding a good

1 faith proffer establishing a serious risk of flight.

2 MS. McDONALD: Yes, your Honor.

3 I would first note that risk of flight is not a
4 permissible basis to move for detention. It must be a serious
5 risk of flight.

6 THE COURT: All right. Hold on. Stop.

7 That -- that's your motion. Correct, Ms. Davis?
8 Serious risk of flight?

9 MS. DAVIS: Yes, your Honor. Serious risk of flight.

10 THE COURT: All right. And so just to let me finish,
11 Ms. McDonald. I think you were here -- either the first or the
12 second day. Correct?

13 MS. McDONALD: I was not, but I'm familiar with the
14 issue, your Honor.

15 THE COURT: Right. And, well, I ruled on the issue
16 in 14-MJ-1802 many moons ago. Like five years ago. So I'm
17 adopting that ruling today and not requiring the Government;
18 unless there's an allegation in a proffer that the Government's
19 not acting in good faith.

20 MS. McDONALD: Well, I would note that these
21 individuals are --

22 THE COURT: That's my ruling, Ms. McDonald.

23 MS. McDONALD: I know. I'm just responding to your
24 Honor in order to make my record.

25 THE COURT: Well, what do you mean "make your

1 record"?

2 I mean, if you want -- if you're saying there's a
3 good faith proffer, I'm denying it. Unless you have some
4 evidence that Ms. Davis is acting in bad faith, we're going to
5 move on.

6 MS. McDONALD: The evidence that I have, your Honor,
7 is that these individuals are the only individuals we've seen
8 so far who lack status, and that is an impermissible basis to
9 move for detention.

10 THE COURT: All right. Thank you. You can preserve
11 the objection with a supplemental written objection at the end
12 of the calendar. But it's being denied at this time. Thank
13 you.

14 We'll set those hearings -- we can do them today or
15 we can do them in three days

16 MS. DAVIS: We're prepared to proceed, your Honor.

17 THE COURT: Are you prepared to proceed,
18 Ms. McDonald?

19 MS. McDONALD: No, your Honor.

20 THE COURT: We'll set these on Friday, 10:00 a.m.

21 All right. So then we are setting bail in the case
22 of Mr. Lepe-Betancourt and Ms. Gonzalez. So these -- these
23 apply to both of you, these conditions.

24 You can't violate the law. You must make all of your
25 court appearances. You will be supervised by Pretrial

1 Services.

2 MS. DAVIS: Your Honor, I'm sorry to interrupt you,
3 but I'm moving to detain Mr. Betancourt as well.

4 THE COURT: And what's that basis?

5 MS. DAVIS: Risk of flight and danger to the
6 community.

7 THE COURT: All right. Then we'll allow it to be an
8 ongoing objection, if you want, Ms. McDonald, so you don't have
9 to repeat it every time.

10 MS. McDONALD: Yes, please.

11 THE COURT: All right. So we'll allow that, and the
12 ruling will be the same and -- the basis for the ruling will be
13 the same.

14 And we'll set Mr. Betancourt's hearing for Friday at
15 10:00 a.m. so that Mr. Hernández can have some time to
16 interview with him.

17 All right?

18 MS. McDONALD: Thank you, your Honor.

19 The dates for Mr. Betancourt is the same as the
20 other -- July 2nd and July 18th? I didn't see the dates.

21 THE COURT: July 2nd is for the preliminary hearing,
22 and -- and the detention hearing is on Friday.

23 And if you give me a second, we'll talk about
24 Ms. Gonzalez, but I need to read the report.

25 (Pause.)

1 THE COURT: All right. And, Ms. Davis, what's your
2 recommendation for Ms. Gonzalez?

3 MS. DAVIS: Yes, your Honor. We're recommending a
4 \$50,000 bond secured by real property. She's 33 years old, a
5 United States citizen. She has no criminal history
6 (indiscernible).

7 THE COURT: Okay. And it appears that she resides in
8 Mexico with her husband and children.

9 MS. VON HELMS: Yes, your Honor.

10 Her husband is present before the Court. He does
11 speak primarily Spanish. So if you want to talk to him, he --
12 would need the assistance of a Spanish-language interpreter.

13 My client is appearing before the Court from -- in
14 MCC clothing. But she is also being assisted by a
15 Spanish-language interpreter --

16 THE COURT: That's fine. Can you give me a proffer
17 on bail, please.

18 MS. VON HELMS: Yes. Your Honor, she does live in
19 Rosarito, but she does have aunts, uncles, and friends who live
20 in the United States.

21 Her husband has begun contacting some of those
22 individuals to see if she could live here. He did speak with
23 Pretrial Services about that, and she would be able to reside
24 here.

25 Now, I note that Pretrial Services recommends a

1 \$15,000 personal appearance bond, cosigned by one financially
2 responsible adult.

3 They indicate, on condition 1, to restrict travel to
4 the Southern District of California with allowing travel to
5 Mexico.

6 I'm not sure if your Honor would so allow, and allow
7 her to live in Mexico and be able to travel up here for her
8 court appearances.

9 She is a United States citizen. She has a
10 six-year-old child and a 15-year-old child. She has been
11 married to her husband for eight years.

12 Her husband works at the military base over in
13 Coronado. She was working recently at the public registration
14 services for approximately one year, here in the United States.

15 Her children are both United States citizens. They
16 have resided both in the United States with her, when she lived
17 in the San Diego area. She's lived in Nevada as well.

18 She's now currently residing in Rosarito because it
19 was more economically feasible to do so.

20 Her husband did speak to Pretrial Services and
21 indicated within the month he could relocate up to the Southern
22 California area.

23 I'm not sure what your Honor might be inclined --

24 THE COURT: I want to know what you're proposing
25 because I need some conditions of release other than what

1 Pretrial is recommending because I don't agree with it.

2 MS. DAVIS: Your Honor if I can interject.

3 When I first spoke with defense counsel right before
4 we started court, it was my understanding -- I made her the
5 offer of 50,000 secured by real property based on what she told
6 me, which was that she had people that she would stay with in
7 the United States.

8 We would oppose her entering Mexico.

9 THE COURT: So, are you saying that that was an
10 agreement you had with her or are you saying --

11 MS. DAVIS: No. I -- no. It wasn't an agreement.
12 It was just based on what she told me. I was willing to offer
13 her 50K.

14 MS. VON HELMS: And, your Honor --

15 THE COURT: Do you have a \$50,000 property bond?

16 MS. VON HELMS: I don't know if they have property.
17 Her husband is looking to see if those -- they do have aunts
18 and uncles that reside here. He wasn't sure if they are owning
19 or renting.

20 I am fine with your Honor setting a bond that
21 requires certain conditions of her. I can -- just seeing that
22 Pretrial was recommending travel to Mexico, I don't know if
23 that was an error, or if that was something your Honor was
24 willing to do.

25 THE COURT: I'm not willing to do that.

1 MS. VON HELMS: Okay. Well, obviously, that would
2 make it easier. But if you're not willing to do that, she
3 could reside here with either the uncles and aunts that reside
4 here --

5 THE COURT: All I know -- with the amount of the bond
6 and do they have property.

7 MS. VON HELMS: I just don't know if we have property
8 yet. I'm fine with --

9 THE COURT: I'm going to set these conditions, then.
10 It will be -- you can't violate the law,
11 Ms. Gonzalez. You must make all of your court appearances.
12 You can't possess any firearm. You can't use drugs without a
13 lawful medical prescription. You'll be supervised by Pretrial
14 Services. Your travel is restricted to San Diego County. You
15 cannot enter Mexico. You'll have to surrender any passport and
16 cannot apply for another. To reside at a residence approved by
17 Pretrial Services.

18 I'm setting a \$30,000 bond secured by real property.
19 And I'm sure -- Ms. Von Helms is a very experienced lawyer. If
20 she cannot find real property, she'll make an additional
21 recommendation to me. Correct?

22 MS. VON HELMS: That's correct, your Honor. I'm fine
23 with that bond.

24 THE COURT: Okay. We'll set a Nebbia hearing and
25 examination of sureties on that bond.

1 Anything additional from Pretrial?

2 PRETRIAL SERVICES OFFICER: Your Honor, Cynthia
3 (indiscernible), Pretrial Services. No additional conditions.

4 THE COURT: All right. Those are the conditions of
5 release, and that's all for today for these folks.

6 MS. VON HELMS: Thank you so much, your Honor.

7 THE COURT: Thank you very much.

8 (Pause, off-the-record discussion between the Court
9 and the clerk.)

10 MS. McDONALD: Your Honor?

11 THE COURT: Yeah.

12 MS. McDONALD: Just so I can file the -- the briefing
13 for the (indiscernible). You mentioned a case that your Honor
14 has ruled on this issue. Can I get that case number?

15 THE COURT: Yeah, it was 14-MJ-1802.

16 MS. McDONALD: 1802.

17 THE COURT: Yeah, your office did the briefing, as
18 well as the U.S. Attorney's Office.

19 I made findings. It went through all of the cases
20 that were cited and determined that a good faith proffer under
21 (f) (2) (A) was not required by the Government in order to move
22 forward with a detention hearing on reasons set forth.

23 And you'll probably get a transcript. But I did add
24 the caveat that if there were grounds that the prosecutor was
25 not moving in good faith and you have specific evidence arguing

1 an inference that the people who are moving to be detained are
2 based on their national origin I don't think is sufficient.
3 But you can put that proffer out, if you want.

4 I can ask Ms. Davis, is the reason you're moving to
5 detain those last cases based on their national origin?

6 MS. DAVIS: No, your Honor. That's something to be
7 taken into consideration. However, these defendants have
8 criminal histories. We know of no community ties. That type
9 of thing, your Honor. That's not the only basis.

10 THE COURT: I'm just wondering -- and this is
11 probably -- just because I haven't done new arraignments in a
12 while, is -- the last time I did it, there wasn't motions to
13 detain on the -- the passport cases or the document cases or
14 even the 1326 cases.

15 MS. DAVIS: Your Honor, it's a new policy now.

16 THE COURT: I think that's what we're dealing with.
17 A new policy. Which isn't bad faith, in my opinion. Doesn't
18 change the rules.

19 MS. McDONALD: Well, (indiscernible) make a record
20 (indiscernible). See if all of the motions (indiscernible)
21 calendar (indiscernible).

22 THE COURT: Sure. Knock yourself out.

23 THE CLERK: Calling matter 11, 19-MJ-2549, USA v.
24 Mario Villalobos Ascencio.

25 Matter 19, 19-MJ-2538, USA v. Jesus Antonio

1 Lopez-Cota.

2 Matter 21, 19-MJ-2541, USA v. Marcos Garcia-Ramirez.

3 Matter 24, 19-MJ-2544, USA v. Celerino

4 Villegas-Lastres.

5 And matter 25, 19-MJ-2551, USA v. Francisco

6 Rincon-Carlos.

7 MS. McDONALD: And, your Honor, I don't have any
8 information about these individuals, but my staff may be on
9 their way.

10 THE COURT: Which individual?

11 UNIDENTIFIED SPEAKER: (Indiscernible) interviews and
12 the paperwork (indiscernible).

13 THE COURT: Can we -- can I seek to arraign them?
14 I'm just advising them on things and appointing counsel. And
15 then -- then I'll wait for whatever you need.

16 If you need to talk to these folks right now -- I
17 guess, is the question.

18 MS. McDONALD: I think they've already been
19 interviewed. So once (indiscernible).

20 THE COURT: Okay. Okay. So, gentlemen, listen
21 carefully.

22 You're all here today being charged with a fed --
23 federal felony offense. You have a right to remain silent.
24 I'm not going to ask you any questions. Anything you do say
25 can be used against you in your case.

1 I will tell you briefly why you're here,
2 Mr. Villalobos-Ascencio. You're charged with bringing in 1.28
3 kilos of fentanyl.

4 Mr. Lopez-Cota, you're charged with having been found
5 in the United States after you've been deported.

6 And, Mr. Garcia-Ramirez, you're charged with trying
7 to come back into the United States after you were deported.

8 And Mr. Villegas-Lastres and Mr. Rincon-Carlos,
9 you're both charged with being found back here in the United
10 States after having been deported.

11 If you're not United States citizens, you have a
12 right to have the consular, officer of your country notified
13 that you've been arrested.

14 You all have a right to an attorney. And if you
15 can't afford one, I will appoint you one.

16 Does Mr. Villalobos Ascencio have an affidavit, or
17 are we still waiting on the documents?

18 UNIDENTIFIED SPEAKER: (Indiscernible) your Honor.
19 (Indiscernible)

20 THE COURT: I'm going to appoint everyone an
21 attorney.

22 And so for Mr. Villalobos Ascencio, we're going to
23 appoint Federal Defenders. And then for Mr. Lopez-Cota, we're
24 going to appoint Mr. -- excuse me -- Conforti.

25 MS. McDONALD: Jason?

1 THE COURT: Jason Thomas Conforti.

2 MS. McDONALD: Who is the first one? I'm sorry, your
3 Honor. Mr. Villalobos?

4 THE COURT: Federal -- Villalobos and Federal
5 Defenders is the attorney.

6 MS. McDONALD: Thank you.

7 THE COURT: And then for Mr. Garcia-Ramirez, it's
8 Christian Ham, H-A-M.

9 And then for Mr. Villegas-Lastres and
10 Mr. Rincon-Carlos, it will be Federal Defenders for each.

11 The last will be Federal Defenders, Christian Ham,
12 for Mr. Garcia-Ramirez. You got it?

13 UNIDENTIFIED SPEAKER: What was the (Indiscernible.)

14 THE COURT: The last two would be Federal Defenders.
15 Your office.

16 MS. McDONALD: That's No. 21 -- or 25, rather?

17 THE COURT: Yes. Yes. Thank you.

18 Everyone has a card?

19 All right. Very good. Thank you.

20 All right. Now, your next court appearance,
21 preliminary hearing -- unless there is going to be a detention
22 hearing, and I'll explain that in a minute -- that will be July
23 2nd at 1:30 in the afternoon for preliminary hearing. Your
24 lawyer will explain in a lot more detail the procedure
25 involved, as well as answer all of your questions.

1 Now, for all of these individuals, we will set bail
2 unless the Government moves for detention.

3 And what's your preference, Ms. Davis?

4 MS. DAVIS: Your Honor, on all of these matters, the
5 Government is moving to detain based on risk of flight.

6 (indiscernible).

7 THE COURT: Let me just -- and it's serious risk of
8 flight, as Ms. McDonald has pointed out?

9 MS. DAVIS: Serious risk of flight.

10 THE COURT: All right. And not that I'm requiring a
11 good faith proffer, but it appears that this is a new policy on
12 the deported alien cases. Is that -- is that correct?

13 MS. DAVIS: Yes, your Honor.

14 THE COURT: And it seems to me that there might be
15 another motion, other than the good faith proffer, but I'm --
16 I'm going to allow it. And -- that's enough of a proffer for
17 me.

18 MS. McDONALD: Thank you, your Honor. And I just
19 need a brief record.

20 I believe that this is an equal protection violation.
21 The Ninth Circuit has prohibited detention based on
22 nationality, citizenship alone. And inherent within all of
23 these charges is an allegation that they are not citizens. And
24 I do believe --

25 THE COURT: Right.

1 But you haven't made a showing that they're being
2 detained based on nationality.

3 MS. McDONALD: Well, I do think --

4 THE COURT: And, quite frankly, that's a separate
5 motion that would not be whether there's a good faith proffer
6 or not to bring a detention hearing. They have a right to move
7 for detention based on serious risk of flight. To the extent
8 that you think there might be a motion filed before the
9 district court in these cases, that they're being detained in
10 violation of their equal protection rights, then that's a
11 separate issue and that's not before me. And that would
12 require briefing before the district judge.

13 MS. McDONALD: Your Honor, may we submit briefing
14 before the detention hearings regarding (indiscernible) basis
15 for our moving for detention (indiscernible) basis as well for
16 Friday?

17 THE COURT: No. We're just going to have detention
18 hearings. To the extent you want to bring a pretrial motion
19 arguing that it's based on some violation of equal protection,
20 you can bring that in due course as a pretrial motion.

21 All right. So we will set the detention hearings in
22 all of your cases on Friday at 10:00 a.m.

23 MS. McDONALD: Yes.

24 THE COURT: And do you want to go forward with any of
25 these today?

1 MS. McDONALD: No, your Honor.

2 THE COURT: Okay. That's all for today.

3 (Pause, the Court and the clerk confer off the
4 record.)

5 MS. McDONALD: Your Honor, just so the Court knows
6 and defense counsel knows, Matter No. 22 is going to be
7 dismissed.

8 Evidently charges were already brought against him
9 under another case number yesterday.

10 THE COURT: All right. Do we need to bring -- bring
11 22 out?

12 I think we can just dismiss it.

13 MS. DAVIS: Correct.

14 THE COURT: All right. So any objection to
15 dismissing No. 22?

16 MS. McDONALD: No.

17 THE COURT: Then we'll grant the motion to dismiss on
18 Mr. Manuel Aquino-Manuel.

19 (Pause, the Court and clerk conferring off the
20 record.)

21 THE COURT: Okay. Why don't we call the case.

22 THE CLERK: Calling matter 19-CR-2297, USA v. Sharrel
23 Ann Myers.

24 MR. GUTIERREZ: Good afternoon, your Honor. Orlando
25 Gutierrez on behalf of the United States.

1 THE COURT: Good afternoon, Mr. Gutierrez.

2 MR. SULLIVAN: Good afternoon, your Honor. Shaun
3 Sullivan on behalf of Ms. Myers. (Indiscernible).

4 THE COURT: All right. Good afternoon.

5 And you're making a general appearance, Mr. Sullivan?

6 MR. SULLIVAN: Yes, your Honor.

7 THE COURT: All right.

8 And, Ms. Myers, you signed a waiver of Indictment
9 form indicating you want to proceed in your case by way of a
10 felony information.

11 Is that what you want to do, ma'am? You have to
12 speak up.

13 THE DEFENDANT: Yes.

14 THE COURT: You have to speak up.

15 THE DEFENDANT: I'm sorry. Yes.

16 THE COURT: Okay. Just speak into the microphone. I
17 don't want you to hurt yourself.

18 All right. So I find Ms. Myers has knowingly and
19 voluntarily waived her right to an Indictment.

20 THE CLERK: Is Sharrel Ann Myers your true name?

21 THE DEFENDANT: Yes.

22 THE CLERK: You're hereby informed that an
23 Information has been filed charging you with a conspiracy to
24 distribute controlled substances and distribution of a
25 controlled substance.

1 Counsel, have you received a copy of the Information,
2 and do you waive further reading?

3 MR. SULLIVAN: Yes.

4 THE CLERK: You're further informed that you're
5 (indiscernible) to trial by jury, to be represented by counsel
6 at all proceedings before this Court, and to have witnesses
7 summoned to testify on your own behalf.

8 How do you plead to the counts of the Information in
9 which you are named?

10 THE COURT: We'll enter a not guilty plea on her
11 behalf.

12 What number is this on the --

13 THE CLERK: (Indiscernible.)

14 THE COURT: The one --

15 THE CLERK: (Indiscernible.)

16 THE COURT: So -- so what's the -- the motion hearing
17 date?

18 THE CLERK: Oh, (indiscernible).

19 THE COURT: Oh, okay. So you're before Judge Bashant
20 for a motion hearing and trial setting on July 29th, at 2:00
21 p.m.

22 She's here on a notice to appear?

23 MR. SULLIVAN: Your Honor, she agreed to come in
24 voluntarily pursuant to an Information, so we could not have
25 the Indictment.

1 THE COURT: All right. And what's -- has she been
2 interviewed by Pretrial Services?

3 MR. SULLIVAN: Your Honor, if the Court would allow,
4 this defendant has -- has a lot of equities in her favor.
5 We've agreed upon a \$50,000 bond signed by her personal
6 signature. She did come here voluntarily. She has met with
7 the Government, with prior prosecutors, and she is
8 (indiscernible) as well.

9 THE COURT: Does she have any criminal history?

10 MR. SULLIVAN: No, your Honor.

11 THE COURT: And where is she residing?

12 MR. SULLIVAN: In San Diego County, your Honor. We
13 do know that she has a prior allegation that forms part of
14 these charges. That's (indiscernible) we're aware of, at this
15 point.

16 THE COURT: Is there any prior convictions?

17 MR. SULLIVAN: Not that we're aware of.

18 THE COURT: Has Pretrial interviewed her?

19 PRETRIAL SERVICES OFFICER: No, your Honor. We have
20 not.

21 THE COURT: Does she have any prior convictions,
22 Mr. Sullivan?

23 THE DEFENDANT: No.

24 MR. SULLIVAN: I'm informed no.

25 THE COURT: All right. And she resides here in San

1 Diego?

2 MR. SULLIVAN: No, she resides just outside of San
3 Diego County, in Murrieta.

4 THE COURT: Murrieta.

5 Is she employed or -- give me some information.

6 MR. SULLIVAN: She's currently --

7 THE DEFENDANT: Disabled.

8 MR. SULLIVAN: -- disabled (indiscernible) cancer.

9 THE COURT: Okay. And do you object to that -- to
10 that bond?

11 MR. SULLIVAN: If -- if Ms. Myers were allowed to --
12 to remain out on her own recognizance, that would be wonderful.
13 Outside of that, \$50,000 would be agreeable.

14 THE COURT: It's basically her own signature.

15 MR. SULLIVAN: Correct.

16 THE COURT: Which is -- and the amount of bond is
17 probably indicative of the seriousness of the offenses.

18 So I will set conditions of release as requested.

19 We have a bail form for her?

20 Thank you.

21 MR. SULLIVAN: Your Honor, if I could -- I don't
22 believe counsel has had a chance to finish looking at the
23 paperwork.

24 Would she be allowed to remain approximately a week,
25 a week and a half, to complete the paperwork?

1 THE COURT: The paperwork can be completed right in
2 court today. It's just a matter of signing a bond. And so, I
3 mean, she's here right now.

4 So, Ms. Myers, these are the conditions that -- we're
5 going to allow you to travel to the Central District in San
6 Diego County.

7 You can't enter Mexico. You must make all of your
8 court appearances. You can't violate the law. You must not
9 possess narcotic drugs without a lawful medical prescription.
10 And you can't possess firearms or dangerous weapons.

11 We will set a \$50,000 personal appearance bond signed
12 only by yourself. So it's -- it's basically unsecured.

13 Is there any other conditions that are deemed
14 important?

15 We'll have you reside at a residence approved by
16 Pretrial Services. But is there any other conditions that
17 anyone can think of that are important?

18 MR. GUTIERREZ: No, your Honor.

19 MR. SULLIVAN: No, your Honor.

20 PRETRIAL SERVICES OFFICER: And, your Honor, she will
21 be under the supervision of Pretrial Services?

22 THE COURT: Yes. You will be supervised by Pretrial
23 Services.

24 And if you can fill out the bail paperwork -- I mean,
25 if she's traveling from Murrieta -- I mean, it's just a matter

1 of filling out \$50,000, signing the form, and -- and then I'll
2 sign it. But she'll have to be booked and released. I'm
3 pretty sure today.

4 MR. SULLIVAN: (Indiscernible) released?

5 THE COURT: She -- I think she has to be
6 fingerprinted, and then she -- she just goes down to the
7 marshals, and it's just a procedure she'll have to do.

8 So if you can -- have you gotten the bail paperwork,
9 so you can fill it out?

10 MR. SULLIVAN: We'll do that (indiscernible) today.

11 THE COURT: Well, you'll have to, if you want her to
12 be released. She's now in the system and bail has been set.
13 So she needs to sign off on the bail. It's very easy.

14 MR. SULLIVAN: Yes, your Honor.

15 THE COURT: So --

16 MR. SULLIVAN: (Indiscernible) return it forthwith

17 THE COURT: All right. You can probably do it right
18 in court. I mean, Federal Defenders might even have a form.

19 MR. SULLIVAN: Thank you.

20 THE COURT: And this is No. 29?

21 (Pause, Court and clerk conferring off the record.)

22 THE COURT: Okay. We can call out Ms. -- is she
23 here?

24 THE CLERK: I'm not sure.

25 THE COURT: Oh, yeah, right here.

1 (Indiscernible.)

2 THE CLERK: Calling matter 29, 19-MJ-2553, USA v.
3 Blanca Ruth Lopez.

4 MS. SCHWARTZ: And, your Honor, if I could just have
5 a moment to get (indiscernible) fabulous interpreter.

6 THE COURT: Of course.

7 (Pause.)

8 UNIDENTIFIED SPEAKER: We're ready, your Honor.

9 THE COURT: Okay. Thank you.

10 Ms. Lopez, you're here today on a notice to appear,
11 being charged of bringing in unlawful aliens without presenting
12 them to the Border Patrol or the border agents. This is a
13 felony offense.

14 You have the right to remain silent. You also have a
15 right to have an attorney appointed and -- have you already
16 been appointed, Ms. Schwartz?

17 MS. SCHWARTZ: No.

18 THE COURT: Then we'll appoint Ms. Schwartz.
19 What date?

20 MS. SCHWARTZ: Today, your Honor. Thank you.

21 THE COURT: As of today.

22 She does qualify for appointment of counsel.

23 She's a U.S. citizen. Right?

24 MS. SCHWARTZ: She is.

25 THE COURT: And this is a diversion case. So you're

1 before Judge Major on July 1st, at 1:30 in the afternoon. So
2 that's Judge Major.

3 And there's an agreed-upon bail in the amount of
4 \$10,000?

5 MS. SCHWARTZ: That is correct, your Honor. And the
6 Government has signed off on that.

7 THE COURT: Okay. These are the conditions of
8 release that --

9 MS. SCHWARTZ: And, your Honor, when you go through
10 the conditions, I do wanted to be heard on the mental health
11 condition. It's the only one.

12 THE COURT: Okay. Hold on a second.

13 MS. SCHWARTZ: Thank you.

14 THE COURT: Says she's a legal permanent resident.
15 Is she a legal permanent resident or a U.S. citizen.

16 MS. SCHWARTZ: No, she's a U.S. -- yeah, she's a U.S.
17 citizen.

18 THE COURT: Oh, I'm sorry.

19 MS. SCHWARTZ: She has to be for this program.

20 THE COURT: Right. Right.

21 MS. SCHWARTZ: (Indiscernible.)

22 THE COURT: All right. Well, I'll hold off on that
23 one condition until you -- we talk about it.

24 MS. SCHWARTZ: Thank you.

25 THE COURT: So, Ms. Lopez, you can't violate the law.

1 You'll have to make your court appearances. You'll be
2 supervised by Pretrial Services.

3 You can't use narcotic drugs without a lawful medical
4 prescription. You can't possess firearms or dangerous weapons.

5 Now, travel. She resides in Tijuana but normally we
6 don't allow travel to Tijuana.

7 What is the position of the parties on this?

8 PRETRIAL SERVICES OFFICER: Your Honor there's no
9 opposition. (Indiscernible.) Your Honor, we would not oppose
10 that request.

11 THE COURT: All right. I'll allow you to travel to
12 Tijuana. Is that where she resides? Tijuana?

13 MS. SCHWARTZ: That is correct, your Honor.

14 THE COURT: And I will say at the discretion of
15 Pretrial Services. They said they don't oppose it.

16 I want her to be in touch so that we can keep track.

17 MS. SCHWARTZ: Correct.

18 THE COURT: You'll execute a \$10,000 bond, signed by
19 your own signature.

20 Now, what's the position on the psychological
21 counseling?

22 MS. SCHWARTZ: Thank you, your Honor.

23 As the Court indicates -- so Pretrial recommended it
24 because she said that --

25 THE COURT: I read the report.

1 MS. SCHWARTZ: You read that.

2 You know, I always ask our clients in diversion if
3 they would like that. It can always be added in. She has a
4 special needs son who is 27 that she cares for, who has not
5 only some physical problems but very, very severe mental health
6 issues.

7 She spends a lot of time with him at (indiscernible),
8 in therapy with him. She really feels -- she's a very bright,
9 articulate woman. She feels that she went before. It helped.
10 She doesn't need it now. She goes into those sessions with her
11 son. And any, you know --

12 THE COURT: I'm fine not to impose it.

13 MS. SCHWARTZ: Thank you. And she can always ask for
14 it in diversion.

15 THE COURT: If she's going to live in Tijuana, it's
16 going to be more of a hassle. She's getting a diversion
17 program. So -- (pause.)

18 All right. Do you understand the conditions of
19 release, Ms. Lopez?

20 THE DEFENDANT THROUGH THE INTERPRETER: Yes.

21 THE COURT: All right. And you have signed for the
22 release of the material witnesses. It is called a stipulation
23 for the release.

24 Have you had this document translated to you?

25 THE DEFENDANT THROUGH THE INTERPRETER: Yes.

1 THE COURT: And do you understand the conditions on
2 which you're agreeing to release the material witnesses?

3 THE DEFENDANT THROUGH THE INTERPRETER: Yes.

4 THE COURT: All right. I find that Ms. Lopez has
5 knowingly and voluntarily entered into this stipulation for the
6 release of the material witnesses. I'll sign their release.
7 I'll sign the bond.

8 Anything else, Ms. Schwartz?

9 I think I got it all.

10 MS. SCHWARTZ: No, your Honor. I'm going to take her
11 (indiscernible), and that's it. Thank you.

12 THE COURT: Okay. Thank you very much.

13 THE CLERK: Do you want to set a status date.

14 MS. SCHWARTZ: He gave one. She has a change of plea
15 next Wednesday before Judge Major at 1:30.

16 THE CLERK: What date is that?

17 MS. SCHWARTZ: 20 -- July 25th.

18 THE COURT: I set the next court date, didn't I?

19 UNIDENTIFIED SPEAKER: July 1st (indiscernible).

20 MS. SCHWARTZ: Oh, July 1st.

21 Thank you.

22 THE COURT: All right. Thank you.

23 MS. DAVIS: What time was that at? I'm sorry.

24 UNIDENTIFIED SPEAKER: 1:30.

25 MS. DAVIS: 1:30? Thank you.

1 THE COURT: Judge Major.

2 MS. SCHWARTZ: Thank you.

3 THE COURT: Thank you, Nancy.

4 (Pause.)

5 (Pause, Court and clerk conferring off the record.)

6 (Recess taken.)

7 (Court resumes.)

8 THE CLERK: Court is back in session.

9 Calling matter 8, 19-MJ-2546, USA v. José Luis
10 Hernández, Jr.

11 Matter 10, 19-MJ-2548, USA v. Timothy Alonzo Nero.

12 Matter 12, 19-MJ-2550, USA v. Marcos Rodriguez.

13 Matter 13, 19-MJ-2552, USA v. Eric Martinez-Reyes.

14 Matter 14, 19-MJ-2545, USA v. Tiffany Dawn Victoria.

15 Matter 15, 19-MJ-2554, USA v. Angel Manuel Gallardo.

16 Matter 16, 19-MJ-2556, USA v. Leslie Michelle
17 Torres-Gomez.

18 Matter 23, 19-MJ-2543, USA versus Fernando
19 Solano-Castrejon.

20 No. 27, 19-MJ-2557, USA versus J. Santos Reyes
21 Garcia-Alonso.

22 And matter 28, 19-MJ-2558, USA versus Luis Angel
23 Escobedo-Medina.

24 THE COURT: All right. Is my interpreter ready?

25 THE INTERPRETER: Yes, your Honor.

1 THE COURT: All right. Thank you.

2 Ladies and gentlemen, all of you are here today being
3 charged with a criminal complaint. It's a felony charge or
4 charges.

5 You all have a right to remain silent. I'm not going
6 to ask you any questions. Anything you do say can be used
7 against you.

8 If you're not United States citizens, you do have the
9 right to have the consular or officer of your country notified
10 that you have been arrested.

11 I'll briefly -- in the case of Mr. Hernández, Jr.,
12 and Mr. Nero, Mr. Rodriguez -- you three individuals are
13 charged with importing a controlled substance.

14 Mr. Reyes, you're charged with possessing
15 methamphetamine with intent to distribute.

16 Ms. Victoria, you're charged with transporting
17 certain aliens for financial gain.

18 Mr. Gallardo and Ms. Torres-Gomez, you're charged
19 with bringing in unlawful aliens without presenting them to the
20 immigration authorities

21 Mr. Solano-Castrejon, you're charged with trying to
22 come back into the country after having been deported.

23 For the person charged as Mr. Garcia-Alonso, you're
24 charged with misusing a passport to gain entry into the United
25 States.

1 For the person charged as Mr.Escobedo-Medina, you're
2 charged with misusing an entry document. In this case, a
3 permanent resident card to gain entry into the United States.

4 You're all entitled to a lawyer. If you can't afford
5 one, I'll appoint you one.

6 So for Mr. Hernández, do we have a financial
7 affidavit?

8 UNIDENTIFIED SPEAKER: Yes.

9 THE COURT: You qualify for appointment of counsel,
10 sir.

11 UNIDENTIFIED SPEAKER: (Indiscernible.)

12 THE COURT: We're going to give you a lawyer, just
13 give me a second. We have a list here.

14 So for Mr. Hernández, Jr., I will appoint Federal
15 Defenders.

16 And then for Mr. Nero, he also qualifies, and we'll
17 appoint Merle Schneidewind. That's with an S. S-C-H.

18 And then for Mr. Marcos Rodriguez, he qualifies. And
19 I will appoint Keith Rutman.

20 And the other was a conflict list for Mr. Reyes.
21 Right?

22 UNIDENTIFIED SPEAKER: It's only Federal Defenders
23 who is conflicted off.

24 THE COURT: All right. All right. So for
25 Mr. Martinez-Reyes -- so Federal Defenders is conflicted off.

1 So we'll appoint Richard Boesen.

2 And then for Ms. Victoria --

3 UNIDENTIFIED SPEAKER: I'm sorry. Did you appoint
4 for Betancourt already?

5 THE COURT: No. I don't know if I've got a
6 Betancourt here.

7 Betancourt was the last group, I think.

8 This is for Ms. Tiffany Dawn Victoria, and we'll
9 appoint the Federal Defenders.

10 UNIDENTIFIED SPEAKER: (Indiscernible.)

11 THE COURT: This is the Federal Defenders.

12 UNIDENTIFIED SPEAKER: Okay. For Ms. Victoria, then?

13 THE COURT: Yeah, for Ms. Victoria.

14 And then for Mr. Gallardo, he does qualify, and I
15 will appoint Benjamin Cheeks.

16 And then for Ms. Torres-Gomez, we'll appoint Dana
17 Grimes.

18 And for Mr. Solano Castrejon, we'll appoint Megan
19 Blanco.

20 UNIDENTIFIED SPEAKER: Megan Blanco?

21 THE COURT: Blanco, B-L-A-N-C-O. For
22 Mr. Solano-Castrejon.

23 The person charged as Mr. Garcia-Alonso, we'll
24 appoint Federal Defenders.

25 And then the person charged as Mr. Escobedo-Medina, I

1 will appoint Lauren Day Cusitello. Okay?

2 THE CLERK: (Indiscernible) hold right now,
3 Ms. Cusitello.

4 THE COURT: She has a hold?

5 THE CLERK: Yes

6 THE COURT: Okay. Gerard Wasson.

7 UNIDENTIFIED SPEAKER: For the last one?

8 THE COURT: Yeah, for the last one. Which -- the
9 person charged as Mr. Escobedo-Medina.

10 Okay. Everyone should have a card. Okay. Now, your
11 next court date, unless there is a detention hearing -- which I
12 suspect there might be -- will be July 2nd for preliminary
13 hearing. That will be at 1:30 before me.

14 Your lawyer will be over to see you and explain in a
15 lot more detail than I can today the procedure, what it means,
16 and answer all of your questions.

17 And everyone is entitled to bail unless the
18 Government moves for detention, in which case we'll have what's
19 called a detention hearing.

20 So we have a large group here. Which one defendant,
21 Ms. Davis, are you moving for detention?

22 MS. DAVIS: Your Honor, 28, 27, and 23. Prepared to
23 proceed.

24 THE COURT: Okay. Hold on. Hold on.

25 23 would be Mr. Solano-Castrejon.

1 MS. DAVIS: Correct.

2 THE COURT: And the two other persons, 27, 28, are
3 the persons charged as Mr. Garcia-Alonzo and Mr. Escobedo
4 Medina.

5 MS. DAVIS: Correct.

6 THE COURT: The basis?

7 MS. DAVIS: Flight risk, your Honor.

8 THE COURT: Flight risk isn't a sufficient basis.

9 MS. DAVIS: Serious flight risk.

10 MS. McDONALD: We object, your Honor.

11 The Government has proffered that they are
12 categorically moving for detention on all cases involving false
13 documents, illegal reentry.

14 THE COURT: Let me ask a question.

15 Are you categorically moving based on policy, or have
16 you individually looked at the case to see if the grounds exist
17 for a detention, meaning serious risk for flight?

18 MS. DAVIS: Yes. We've also looked at the grounds
19 (indiscernible) your Honor.

20 THE COURT: And do you believe that the grounds exist
21 that can be established?

22 MS. DAVIS: Yes, your Honor.

23 THE COURT: Under the 3142(g) factors?

24 MS. DAVIS: Yes.

25 THE COURT: All right. So really the issue is does

1 this policy discriminate.

2 And, again, that is, I think, a separate motion that
3 you can bring at a different time and place.

4 MS. McDONALD: Your Honor, I think that there is a
5 policy in place, and I think that that is an impermissible and
6 improper (indiscernible) basis to move for detention in these
7 cases, your Honor.

8 THE COURT: Well, you know you're basing
9 it on serious risk of flight, which -- which is allowed under
10 the statute.

11 MS. McDONALD: And --

12 THE COURT: And which is required under the Federal
13 Rule of Criminal Procedure 47.

14 The only thing that is required is that she have a
15 good faith basis that she has grounds to establish serious risk
16 of flight.

17 MS. McDONALD: And I would ask --

18 THE COURT: Which is a requirement under our local
19 rules, and the United States versus (indiscernible), a Supreme
20 Court case; as well as United States versus (indiscernible).
21 That's the only requirement. And she's established it, in my
22 view. So we'll have a financial hearing.

23 Your objections are preserved, and I suggest to the
24 extent you want to explore that there's a policy that violates
25 the equal protection rights of -- based on nationality, I

1 suggest that is -- this is not the time or the place. It's a
2 pretrial motion. Or maybe you can bring it on appeal, if you
3 want, if these folks are detained. And if they're not
4 detained, I don't know how you're prejudiced. But we'll set
5 those detention hearings on Friday at 10:00 a.m. before me.

6 All right. So we'll set bail in the other cases.

7 Now, listen carefully, all of you who -- who we are
8 setting bail on. These conditions apply to everyone.

9 You cannot violate the law. You must make all of
10 your court appearances. You can't possess firearms or
11 dangerous weapons. You can't use narcotic drugs without a
12 lawful medical prescription. You must be supervised by the
13 Pretrial Services office. Travel is restricted to San Diego
14 County. You cannot enter Mexico.

15 If you're a U.S. citizen, you'll have to surrender a
16 valid passport. You'll all have to reside at a residence
17 approved by Pretrial Services.

18 I'll then set additional conditions as we call your
19 case. And, of course, I'm going to need a little time to
20 review the reports. So we will start with Mr. Hernández. But,
21 again, I need to review the report.

22 UNIDENTIFIED SPEAKER: This is?

23 THE COURT: This is Mr. José Ruiz Hernández, Jr.

24 MS. DAVIS: Correct, your Honor.

25 The defendant --

1 THE COURT: I need to read the report.

2 MS. DAVIS: Oh.

3 THE COURT: Okay. And I'm sorry. Ms. Davis, what
4 was your recommendation?

5 MS. DAVIS: He's 23 years old. He's a United States
6 citizen who resides in Paris, California.

7 We are -- no criminal history, your Honor.

8 We are requesting a \$30,000 personal appearance bond
9 secured by the signatures of two financially responsible adults
10 and a 10 percent cash deposit.

11 THE COURT: Okay. And, Ms. McDonald?

12 MS. McDONALD: Thank you, your Honor.

13 We're requesting that the Court adopt Pretrial
14 Services' recommendation of a \$15,000 personal appearance bond
15 secured by one financially responsible adult.

16 Mr. Hernández has no criminal history, and Pretrial
17 Services did personally speak with his sister to confirm that
18 he has a residence.

19 So in light of his lack of criminal history, his
20 significant family support and youth, we would request that the
21 Court adopt Pretrial Services' recommendation.

22 THE COURT: All right. I am going to extend travel
23 to the Central District. That's where he lives. Right?

24 (Indiscernible due to overlapping speakers.)

25 UNIDENTIFIED SPEAKER: Yes.

1 THE COURT: Well, it's going to be a \$25,000 personal
2 appearance bond secured by the signatures of two financially
3 responsible adults, with a 10 percent cash deposit. Actually
4 seek and maintain full-time employment, schooling, or a
5 combination of both. And all of the other conditions I've
6 mentioned apply.

7 Anything else from Pretrial?

8 PRETRIAL SERVICES OFFICER: No, your Honor.

9 THE COURT: All right. Those are the conditions for
10 Mr. Hernández.

11 And then we'll address Mr. Nero, but I will need to
12 read his report.

13 (Pause.)

14 THE COURT: Okay. Ms. Davis, what's your
15 recommendation?

16 MS. DAVIS: Mr. Nero is 36 years old. He has resided
17 in Tijuana for the last eight years with his wife and three
18 children.

19 He is employed, evidently, in the United States. Has
20 been for one year.

21 This defendant does have a criminal history, your
22 Honor. I'm showing five total points in the Criminal History
23 Category of III. We're requesting a \$40,000 personal
24 appearance bond secured by the signatures of two financially
25 responsible adults and a 10 percent cash deposit.

1 THE COURT: All right. Ms. McDonald?

2 MS. McDONALD: We're requesting a \$15,000 personal
3 appearance bond with one financially responsible adult.

4 Mr. Nero has three children and significant ties to
5 the community.

6 Pretrial Services spoke with his wife and confirmed
7 that he has support in the community during the pendency of
8 this case.

9 While he doesn't --

10 THE COURT: Doesn't his wife live in Mexico?

11 MS. McDONALD: Yes, your Honor. But I believe that
12 he does -- he represented that he has friends in the community
13 that he can stay with. A lot of people in -- in this report
14 live in Tijuana, but I'm sure that he could find a residence
15 here.

16 THE COURT: But have you confirmed any place?

17 MS. McDONALD: We don't have an address to provide at
18 this time. No, your Honor. But he did represent to Pretrial
19 Services that he has friends he -- he can reside with.

20 There's also plenty of conditional housing available
21 to people in the community. Although he does have a his --
22 criminal history, they're about ten years old, and none of
23 these are related to violence or controlled substances.

24 So we think Pretrial Services' recommendation is
25 perfectly reasonable in this case.

1 THE COURT: I disagree.

2 Do any of these prior convictions score, as Ms. Davis
3 stated?

4 MS. McDONALD: I -- it looks like one --

5 THE COURT: Because you said it is a Criminal History
6 III, which means he wouldn't be safety valve eligible.

7 MS. McDONALD: And I don't believe that's --

8 THE COURT: Which means he would be facing a ten-year
9 mandatory minimum sentence.

10 MS. McDONALD: Your Honor, I don't believe him to be
11 in a Criminal History Category III because most of these --
12 they're all under one year of confinement, and they're all over
13 ten years old. So I don't -- I don't believe that to be the
14 case.

15 THE COURT: Well, they're only over ten years old
16 if -- it's when he's released from custody, I think, is when
17 they count the ten-year limit, don't they?

18 MS. DAVIS: Right, your Honor.

19 So of those three cases, of 2009, which means that
20 they would -- the ten years would not run until 2019. Two of
21 them in July of 2019 and one in October of 2019.

22 MS. McDONALD: And those are -- one of those is one
23 point. And one of those is possibly two. So while -- three
24 points is not a Criminal History Category III.

25 MS. DAVIS: No, your Honor --

1 THE COURT: Well, let's not argue.

2 If he does have -- if he's not safety valve eligible,
3 he's facing ten years. All of his ties, I can see right now,
4 are in Tijuana. So I'm setting a \$50,000 cash or corporate
5 surety bond without prejudice to locate some confirmed
6 sureties, and I will consider changing that. But right now
7 that is the bond.

8 And actively seek and maintain employment, and all of
9 the other conditions I just stated for Mr. Nero.

10 So I will -- Mr. Rodriguez, I'll look at his report.

11 (Pause.)

12 THE COURT: What's the Government's recommendation
13 for Mr. Rodriguez?

14 MS. DAVIS: Mr. Rodriguez is 52 years old. He is a
15 United States citizen who has resided in Tijuana the majority
16 of his life.

17 This involves a marijuana (indiscernible) of -- about
18 152 kilos of marijuana.

19 He has one criminal conviction; however, it was back
20 in 1996, but we are requesting a \$40,000 personal appearance
21 bond secured by the signatures of two financially responsible
22 adults and a 10 percent cash deposit.

23 THE COURT: What's -- do you know what the base
24 offense level is for the amount of marijuana he has?

25 MS. DAVIS: I do not --

1 THE COURT: It's not a mandatory sentence. Correct?

2 MS. DAVIS: Oh, no. No, your Honor.

3 THE COURT: And compared to the other hard drugs,
4 this is relatively --

5 MS. DAVIS: Minor.

6 THE COURT: -- minor, to say.

7 All right. And your recommendation, Ms. --

8 MS. McDONALD: We're requesting the Court adopt the
9 Pretrial Services' recommendation of a \$50,000 personal
10 appearance bond.

11 It looks like he does have a -- a local address that
12 he provided to Pretrial Services to reside with his father.

13 He is a father of two, gainfully employed, and his
14 prior convictions is quite dated.

15 So minus his community ties, the criminal history, I
16 think Pretrial Services' recommendation is reasonable,
17 considering they have the benefit of (indiscernible).

18 THE COURT: Okay. I'm going to set a \$20,000
19 personal appearance bond signed by one financially responsible
20 adult, assume his dad. And we'll ask for a 10 percent cash
21 deposit, which would be \$2,000.

22 Again, actively maintain employment and reside at a
23 residence approved by Pretrial Services.

24 Anything else from Pretrial on this case?

25 PRETRIAL SERVICES OFFICER: No, your Honor.

1 THE COURT: All right. Those are your bail
2 conditions for Mr. Rodriguez.

3 We'll address Mr. -- Mr. Reyes next, but I will need
4 to look at his report.

5 Do we have a report on Mr. Reyes?

6 MS. DAVIS: Yes, we do, your Honor.

7 THE COURT: Okay.

8 Oh, I see it. Okay.

9 Okay. What's the Government's recommendation for
10 Mr. Martinez-Reyes?

11 Where is Mr. Martinez-Reyes?

12 Do you have a recommendation, Ms. Davis?

13 MS. DAVIS: Your Honor, what number is that?

14 THE COURT: This is No. 13, Mr. Eric Martinez-Reyes.

15 MS. DAVIS: Oh, your Honor, I'm sorry. We're moving
16 for detention based on risk of flight and danger to the
17 community.

18 THE COURT: All right. I will set -- for
19 Mr. Martinez, we'll set your detention hearing on Friday at
20 10:00 a.m., based on risk of flight and -- serious risk of
21 flight and danger to the community.

22 Okay. And moving right along for Ms. Victoria, I'll
23 need a second, if you don't mind.

24 (Pause.)

25 THE COURT: All right. So what is the Government's

1 recommendation for Ms. Victoria?

2 MS. DAVIS: The defendant is 38, a United States
3 citizen.

4 She cannot recall the last time that she had a stable
5 residence, your Honor. Evidently she's been jumping from motel
6 to motel.

7 There appears to be a drug abuse problem with regard
8 to this defendant.

9 The defendant has convictions starting back in 2016.
10 By my calculations, she has 11 criminal history points. She's
11 in Criminal History Category V. She is currently on probation.

12 We're requesting \$50,000 cash or corporate surety
13 bond in addition to a 3142(d) hold.

14 THE COURT: The probationary case is the possession
15 of the -- the August 17, 2017, or is there -- it could be a
16 couple --

17 MS. DAVIS: November -- actually, it would run from
18 the two 12 -- December 6, 2016, she was placed on the three
19 years probation, your Honor. So that would run in December of
20 this year.

21 And then you have the 2017 conviction that she's on
22 probation on as well.

23 THE COURT: Well, okay. Ms. McDonald.

24 MS. McDONALD: Thank you, your Honor.

25 I would first object to the 3142(d) hold. These

1 appear to all be misdemeanors, in summary from Probation. And
2 in my experience --

3 THE COURT: I'm not going to impose it.

4 MS. McDONALD: Thank you, your Honor.

5 And with regard to bond, we would request that the
6 Court adopt the Pretrial Services' \$20,000 personal appearance
7 bond recommendation. However, we request one financially
8 responsible adult.

9 She did provide a residence to Pretrial Services with
10 a longtime friend who she believes would help support her
11 during the pendency of this process.

12 Her criminal history is limited to misdemeanors. So
13 (indiscernible) support that she has and the -- the -- the fact
14 that these are not relatively serious convictions, we think
15 that the Pretrial Services' recommendation is reasonable. And
16 this is not a mandatory minimum case.

17 THE COURT: Okay. I will extend travel to the
18 Central District.

19 There will be a \$25,000 personal appearance bond
20 signed by two financially -- financially responsible adults.

21 She'll have to actively seek and maintain employment.
22 Reside at a residence approved by Pretrial Services, including
23 a contract facility if they don't approve of a residence.

24 Again, surrender any valid passport. Clear up any
25 warrants or fines as directed by Pretrial Services. Submit to

1 drug testing no more than eight times per month.

2 Any other recommendations from Pretrial?

3 PRETRIAL SERVICES OFFICER: No, your Honor. But it
4 appears that the defendant may have a question about your
5 Honor's conditions.

6 MS. McDONALD: May we just a moment, your Honor?

7 THE COURT: Yes.

8 MS. DAVIS: Your Honor, did you impose the 3142(d)
9 hold?

10 THE COURT: I didn't do it. It's summary probation.
11 They're not going to -- they're just not going to. If it was
12 formal probation, that's a whole different program.

13 MS. DAVIS: I hear you.

14 And no cash deposit. Right?

15 THE COURT: She's got no money. If I can get two
16 people to sign and she stays in a contract facility and drug
17 tests, I'll be happy.

18 MS. McDONALD: Thank you, your Honor.

19 THE COURT: All right. So those are the conditions
20 for Ms. Victoria.

21 And then if you give me a second for Mr. Gallardo.

22 (Pause.)

23 THE COURT: I think the iPad doesn't want to work
24 anymore. It's on strike.

25 UNIDENTIFIED SPEAKER: I do have an extra --

1 THE COURT: No, hold on. I'll give it a second try.
2 Can't seem to pull up his report.

3 There we go.

4 All right. And, Ms. Davis?

5 MS. DAVIS: Yes, your Honor. The defendant is a
6 United States citizen. He's 42 years old. He resides in
7 Tijuana and has for the last seven months.

8 The case involves him smuggling five undocumented
9 aliens in a U-Haul moving truck.

10 This defendant has a criminal history dating back to
11 2003. It's four misdemeanor convictions and three felony
12 convictions. As far as I can tell, he's no longer on
13 probation.

14 We are requesting a \$30,000 cash or corporate surety
15 bond, your Honor.

16 THE COURT: All right. And -- and your
17 recommendation, Ms. McDonald?

18 MS. McDONALD: The amount requested by the Government
19 is tantamount to detention in this case. We would request that
20 the Court adopt Pretrial Services' recommendation.

21 While Mr. Gallardo was currently living in Tijuana,
22 he did say that -- he provided information to Pretrial Services
23 that he is able to reside with his mother in Hollywood. He
24 also has family support. He has three brothers and sisters in
25 the San Fernando Valley area, and he's currently gainfully

1 employed at a warehouse house, providing for him and his child.

2 While he does have a criminal history, they're all
3 misdemeanors, and I believe that all of the felonies that are
4 eligible for reduction under proposition 47 -- I think
5 (indiscernible) lack of seriousness as well. So for those
6 reasons we think that the Pretrial Services' recommendation is
7 appropriate.

8 THE COURT: All right. So I want to extend the
9 travel to the Central District. Again, cannot enter Mexico.
10 And it will be a \$25,000 personal appearance bond signed by two
11 financially responsible adults.

12 Actively seek and maintain full-time employment.

13 Going to order drug testing; no more than eight times
14 per month. After the first 30 days, though, if he's clean,
15 then I'm not going to -- I'll modify it.

16 Anything else from Pretrial?

17 PRETRIAL SERVICES OFFICER: Yes, your Honor.

18 The -- the -- if he resides at a residence approved
19 (indiscernible) contract facility.

20 THE COURT: Yes. That's part of the -- that includes
21 the contract facility.

22 If he can't live with his mother or someone that you
23 approve, then we'll approve a contract facility. Okay?

24 And, moving right along, we'll address Ms. Tore --
25 Ms. Torres-Gomez in a second.

1 (Pause.)

2 THE COURT: All right. It appears that she's a
3 Mexican citizen. Is that correct?

4 MS. DAVIS: Yes.

5 THE COURT: And she's charged with bringing in --

6 MS. DAVIS: Correct, your Honor. The unlawful alien
7 was in -- in the center console of her vehicle.

8 THE COURT: All right. I remember reading this.

9 Okay. And your recommendation?

10 MS. DAVIS: My recommendation was a \$40,000 cash or
11 corporate surety bond.

12 THE COURT: Okay. All right. And I'm sorry. Your
13 recommendation (indiscernible)?

14 MS. McDONALD: We're requesting a \$5,000 cash or
15 corporate surety bond.

16 It appears as though Ms. Torres-Gomez has zero
17 criminal history and was lawfully attempting to enter the
18 United States.

19 She has a three-year-old child who she provides for,
20 and she's only 19 years old, your Honor.

21 So in light of those circumstances, \$5,000 is more
22 than sufficient to secure her attendance.

23 THE COURT: All right. I am going to impose a
24 \$15,000 personal appearance bond signed by one financially
25 responsible adult.

1 Does she have anyone here that she can live with? Do
2 you know of any ties at all here?

3 MS. McDONALD: I don't have an address to provide at
4 this time, your Honor.

5 THE COURT: All right. Well, then we'll approve a
6 contract facility. She can find a financially responsible
7 adult.

8 All right. Those are the conditions for
9 Ms. Torres-Gomez.

10 And I think the remaining folks is -- was
11 detention -- move for detention? I think so. I think we're
12 done.

13 UNIDENTIFIED SPEAKER: We are.

14 THE COURT: I think we've gotten everyone.

15 UNIDENTIFIED SPEAKER: All right.

16 (Pause.)

17 THE COURT: Okay.

18 THE CLERK: Calling matter 6 as a nobody, 16-CR-2072,
19 USA v. Hugh Scott Turner.

20 THE COURT: Okay. Hold on.

21 MS. DAVIS: I don't have him on my list.

22 THE COURT: You know what? He was -- he was not
23 writted over. I signed a writ last night. He's in state
24 custody.

25 MS. DAVIS: Oh.

1 THE COURT: I'm almost positive.

2 UNIDENTIFIED SPEAKER: (Indiscernible.)

3 THE COURT: And I think that -- was that the proffer
4 made by Mr. (Indiscernible).

5 MS. DAVIS: That's correct. He's out on a writ.
6 He's on state side.

7 THE COURT: All right. So I think I ordered him
8 here.

9 So he should be here hopefully tomorrow.

10 THE CLERK: Calling matter No. 17 as a nobody,
11 19-MJ-2500, USA v. Ricardo Aguilar-Contreras.

12 MS. DAVIS: Yes, your Honor. The defendant is at
13 API, detoxing from heroin and alcohol.

14 THE COURT: Any idea of --

15 MS. DAVIS: There's no estimate as to when. He was
16 just booked into (indiscernible) booked into API. But as of
17 nine o'clock this morning -- or, rather, this after -- this
18 afternoon, he is at API now, has arrived, and he is housed in a
19 particular room: Room No. 222B.

20 THE COURT: All right. Did -- did I appoint counsel
21 for him yet?

22 MS. McDONALD: Federal Defenders, your Honor.

23 THE COURT: Okay. So then we'll set it on status for
24 Friday. And if he's not here, we'll put it on next week's
25 calendar.

1 MS. DAVIS: Okay.

2 UNIDENTIFIED SPEAKER: And it appears (indiscernible)
3 is on his way, your Honor.

4 THE COURT: Oh, I can't wait. That's a separate
5 matter. That has nothing to do with --

6 MS. DAVIS: Yes, that is. Correct. Search warrant.

7 THE COURT: Yeah. Yeah.

8 Is that all? That's everyone?

9 All right. Thank you.

10 THE CLERK: That concludes matters on the log. Court
11 is in recess.

12 (Conclusion of proceedings.)

13 --oOo--

14 I certify, by signing below, that the foregoing is a correct
15 stenographic's transcript, to the best of my ability, of the
16 digital recording of the audio proceedings had in the
17 above-entitled matter this 23rd day of June, 2019. A
18 transcript without an original signature or conformed signature
19 is not certified. I further certify that the transcript fees
20 and format comply with those prescribed by the Court and the
21 Judicial Conference of the United States.

22 /S/ Amanda M. LeGore
23 _____

24 AMANDA M. LeGORE, RDR, CRR, CRC, FCRR, CACSR 14290
25